

Message Text

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ACTION ARA-10

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C O N F I D E N T I A L CARACAS 8681

EO 11652: GDS

TAGS: ENRG VE

SUBJ: FRAUD SUIT AGAINST PETROLEUM COMPANIES

REF: CARACAS 5602

1. SUMMARY: A SUIT HAS BEEN BROUGHT AGAINST FOREIGN PRIVATE PETROLEUM COMAPNIES BY LOCAL ATTORNEYS ALLEGING FRAUD IN PETROLEUM EXPLOITATION. THE CHARGES ARE REGARDED AS ABSURD BY COMPANY REPRESENTATIVES, WHO HAVE RECEIVED ASSURANCES FROM THE GOV THAT THE MATTER WILL BE RESOLVED WITHOUT HARMING THEIR INTERESTS. THE CASE HAS POLITICAL IMPLICATIONS, HOWEVER, AND IT IS NOT CLEAR AT THIS TIME HOW IT WILL BE SETTLED. END SUMMARY.

2. SEVERAL WEEKS AGO TWO LOCAL ATTORNEYS KNOWN TO HAVE LEFTIST LEANINGS FILED A SUIT IN LOCAL CRIMINAL COURTS AGAINST 19 FOREIGN OIL COMPANIES FOR ALLEGED FRAUD AGAINST THE NATION IN PETROLEUM EXPLOITATION. THE SUIT GREW OUT OF A REPORT OF THE PUBLIC ACCOUNTANTS FEDERATION SUBMITTED TO THE SENATE MINES AND HYDRO-CARBONS COMMISSION (SEE REFTTEL), PARA 8).

3. THE SUIT AGAINST THE COMPANIES ALLEGES THAT THE NATION WAS
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DEFRAUDED IN THREE WAYS. FIRST, IN AREAS WHERE COMPANY CON-

CESSIONS ARE ADJACENT TO THE NATIONAL RESERVE (AREAS NOT UNDER CONCESSION TO ANYONE, INCLUDING CVP), THE SUIT ALLEGES THAT THE COMPANIES HAVE EXTRACTED PETROLEUM LYING BEYOND THEIR CONCESSION AREAS. SECOND, THE SUIT ALLEGES THAT UNITIZATION AGREEMENTS HAVE CHEATED THE CVP OF ITS PROPER SHARE OF UNITIZED FIELDS. THIRD, THE SUIT ALLEGES THAT REALIZED PRICES FOR PETROLEUM WERE HIGHER THAN TAX REFERENCE PRICES DURING CONSIDERABLE PERIODS OF TIME, AND THEREFORE THE COMPANIES HAVE DEFRAUDED THE NATION OF SUBSTANTIAL TAXES DUE.

4. CONVERSATIONS WITH PETROLEUM COMPANY REPRESENTATIVES REVEAL VARIOUS DEGREES OF CONCERN--SOME ARE RELATIVELY RELAXED, OTHERS ARE QUITE CONCERNED. ALL COMAPNIES REGARD THE CHARGES AS ABSURD, BUT MOST COMPANIES HAVE RETAINED THE BEST CRIMINAL LAWYERS AVAILABLE TO DEFEND THEMSELVES. BESIDES THE ALLEGED CRIMINAL RESPONSIBILITY, IF THE COMAPNIES WERE FOUND GUILTY THEY MIGHT BE FORCED TO PAY SUBSTANTIAL AMOUNTS OF MONEY WHICH WOULD OFFSET COMPENSATION PAYMENTS AND LEAVE SOME COMPANIES OWING ADDITIONAL AMOUNTS. A PRINCIPAL CONCERN IS THE POLITICAL MOTIVATION WHICH APPEARS TO BE UNDERLYING THE CASE.

5. COMPANY REPRESENTATIVES POINT OUT THAT THE GOVERNMENT, INCLUDING ESPECIALLY THE MINISTRY OF MINES AND HYDROCARBONS, IS ALSO A TARGET OF THE LAWSUIT, SINCE UNITIZATION AGREEMENTS BETWEEN THE VENEZUELAN PETROLEUM CORPORATION (CVP) AND THE PRIVATE COMPANIES WERE REVIEWED AND APPROVED BY THE MINISTRY. WE UNDERSTAND THE MINISTER OF MINES HAS ASSURED COMPANY REPRESENTATIVES THAT THEY SHOULD NOT BE UNDULY CONCERNED ABOUT THE CASE. THE MINISTER IMPLIED THAT THE GOV UNDERSTANDS THAT THIS IS A TECHNICAL PROBLEM AND THAT THE GOV WILL NOT ALLOW THE COURT CASE TO GET OUT OF HAND. SOME COMPANY REPRESENTATIVES BELIEVE THE GOV HAS ALREADY INTERVENED BY ARRANGING TO HAVE THE CASE TRANSFERRED AWAY FROM THE JURISDICTION OF A JUDGE WITH COPEI LEANINGS.

6. ON AUGUST 15 EMBASSY ECON COUNSELOR EXPRESSED CONCERN TO MINISTRY OF MINES OFFICIAL ABOUT THE LAWSUIT AND THE EFFECT A DECISION MIGHT HAVE ON THE AMOUNT AND TYPE OF COMPENSATION PROVIDED FOR NATIONALIZED ASSETS. THE OFFICIAL SAID THAT THE MINISTRY CONSIDERS THIS TO BE A TECHNICAL QUESTION WHICH MUST

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BE RESOLVED IN ACCORDANCE WITH UNITIZATION AGREEMENTS MADE WITH THE COMPANIES. HE DID NOT FORESEE ANY GREAT DIFFICULTY IN RESOLVING THIS ISSUE IN THE NEXT FEW MONTHS. HE SAID IT WAS TRUE THAT TAXES SHOULD BE ASSESSED ON THE BASIS OF VALUE REALIZED FOR PETROLEUM EXPORTS IF SUCH PRICES WERE HIGHER THAN TAX REFERENCE VALUES, BUT HE DOUBTED THAT THERE WOULD BE ANY PROOF THAT COMPANIES HAD IN FACT RECEIVED HIGHER PRICES THAN THE TAX REFERENCE VALUE.

7. COMMENT: THE LAWSUIT REPRESENTS HARASSMENT BY THE POLITICAL OPPOSITION. DISGRUNTLED ELEMENTS IN CVP WHO ARE MIFFED THAT CVP IS NOT TO BE GIVEN A LARGE ROLE IN THE NATIONALIZED INDUSTRY MAY ALSO HAVE PLAYED A PART.

8. THE GOV APPEARS TO HAVE GOOD REASONS TO ATTEMPT TO RESOLVE THE FRAUD SUIT AS SPEEDILY AS POSSIBLE ALONG LINES CONSISTENT WITH THE TERMS OF THE UNITIZATION AGREEMENTS. THE SUIT IS A DISTURBING ELEMENT AT A TIME WHEN THE GOV AND THE COMAPNIES MUST ENGAGE IN SERIOUS NEGOTIATIONS ON NATIONALIZATION. THE CASE IS POLITICALLY SENSITIVE, HOWEVER, AND IT IS NOT CLEAR AT THIS TIME HOW THE ISSUE WILL BE RESOLVED.

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